IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2856 OF 2006

in

APPEAL (LODGING) NO. 658 OF 2006

IN

ARBITRATION PETITION NO. 293 OF 1996

Shri Ramesh S. Nagool ... Appellant
(Orig. Petitioner)

Versus

Bharat Petroleum Corporation & Anr. Respondents

Mr. M.M.Sathaye for appellant.
Ms. S. John i/b. M.P.Savla & Co. for respondent No.1.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.
DATE : 6th August, 2007.

P.C.

1. Admittedly, the delay in filing the appeal is of nine years. According to the appellant, he was ill and, therefore, he could not file this Appeal for nine years. Therefore, to find out whether the appellant has any

prima facie case on merits, we have heard learned Advocate for the appellant on merits.

2. There is an award made by the arbitrator under the Arbitration Act, 1940 against the appellant. That award was challenged before this Court. Objections were raised. Perusal of the order of the learned Single Judge shows that only one point was argued before the learned Single Judge. It was contended that the direction issued by the arbitrator that 144 cylinders should be returned by the petitioner-appellant to the respondent No.1 is not justified because those cylinders were seized by the police and were released in favour of the respondent No.1. The learned Single Judge has observed in the order that no material was produced before the learned arbitrator to show that 144 cylinders were seized by the police and were delivered to the respondent No.1. Therefore, we asked the learned Counsel for the appellant to show us a ground raised in the petition to that effect that though before the arbitrator, documents were produced to show that 144 cylinders were delivered to the respondent No.1 by the police authorities, the arbitrator has not considered those documents. The learned Advocate appearing for the appellant is unable to show us any ground in the petition. He is also unable to show us that any material or document was produced before the learned

arbitrator in support of his claim that 144 cylinders were seized by the police and were delivered to the respondent No.1.

3. It is thus clear from the record that the appellant has no case on merit and, therefore, no useful purpose will be served by condoning the delay.

The Motion and the Appeal are disposed of.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)